The former affranchis fully intended to keep
38 their lands THE HAITIAN PEOPLE once the

175 French were driven out. They could not but be alarmed as they saw
423 the steady direction of Dessalines' moves toward a complete mo-
425 nopoly of land ownership by the state. On the very day following
471 independence, a decree proclaimed that all lands owned by France in colonial days now belonged to Haiti. Next (February 7, 1804) Dessalines canceled all sales and donations made to mulattoes and ex-slaves by fleeing French who, in a last despairing effort to salvage something from the wreckage of olden days, had "entrusted" their lands to non-whites. By these two strokes all lands owned by white men before 1803 became state property,[5] but only the second clipped the wings of socially ambitious colored people.

175 Serious uneasiness was caused by the next measure, an order for a
421 general verification of property titles. This would have been a deli-
[693] cate task at best, considering the disorder of the past thirteen years. It was made more complicated to carry out by the serious lack of men trained in law. A few like Balthasar Inginac, later an important adviser and trusted friend of two presidents, were scrupulously conscientious, but by the same token highly unpopular with those whom they deprived of newly (and shadily) acquired "estates." The majority of officials, according to report, listened to the pleading of many who had managed by hook or crook to secure a tenuous claim to vacant properties, validating their fraudulent titles for them. It has been claimed, without rebuttal, that most of these officials were not above taking bribes. When complaint was made to Dessalines of such actions he took steps to make his appointees do their duty, but each confiscation made new enemies for Dessalines.

Some of the mulattoes, citing their French paternity, claimed land formerly owned by their French fathers, even though these parents had never regarded their sons as more than bastards. Dessalines once broke out in furious answer to such a claimant: "*Et les pauvres*
175 *nègres dont les pères sont en Afrique, ils n'auront donc rien!*"
425 The state took over thousands of acres. Those Haitians, colored or
556 black, who aspired to landownership as the foundation of position,

[642] [648] 5. The hatred of the Haitians for the French, and because of them, for white people in general, was seen not only in these confiscations but in commitments for the future. A proclamation of April 28, 1804, suppressed to "all foreigners" the right to own property in land. The first Haitian constitution, May 20, 1805, took an even more drastic step in saying that "no white man shall henceforth set foot in this country as a landowner," and that "*all* property formerly belonging to a white Frenchman" was now confiscate to the profit of the state.

3: Leyburn Z-4, 5 (no date) 1966
SV3 Haiti SV3

175 Convinced at last that the easygoing policy was a failure, Boyer
24 devised by way of remedy a new set of agricultural laws. Where his
671 predecessors in the North had forced action first and then issued
643 simple laws to fix the practice, Boyer, always cerebral rather than active, planned a complete Code which was designed to call forth action. On May 1, 1826, following an address by the President, the Senate issued the Code Rural, an ingenious attempt of Boyer and his secretary-general, Inginac, to reorder the agricultural life of Haiti.

Never again in the history of the country was so detailed a scheme worked out. It was an attempt on a grand scale to order the life of all people for common prosperity. In addition to its own broad scope and elaborate detail, it was fortified by almost unanimous support among the aristocracy, not only the ex-peers of Christophe's defunct kingdom, but also the large landowners of the republic who under Pétion had never known large incomes. In considering the Code, one cannot restrain a certain admiration of Boyer's ingenious mind. Yet it marked the end rather than the beginning of plantation agriculture, for it utterly failed of its purpose. It was the impressive monument over the tomb of state control.

To examine it further, we must desert the world of men for one of pure economic device. The journey is hardly one of discovery, for Boyer and his aides were simply attempting to freshen up for use the methods which had served colonial Saint-Domingue and feudal Haiti. For all the tedium of a voyage through the mazes of an economic plan which came to naught, the Code will be found significant as marking the end of a way of life, even when the way which succeeded it had already begun to take form.

175 The dominating principle of the Code was the Haitian's "obliga-
671 tion" to work on the land. To this end, the worker was once more
24 legally attached to the soil. Every individual who was not a public
566 functionary, and who had not private means or a profession—in plain
693 English, every Haitian except the aristocrat, the official, the artisan, and the soldier—was bound to the land, with no right to separate himself from it except in case of imminent danger. An agricultural worker might apply to the local *juge de paix*[38] for permission to quit the countryside to live in a town or village, but the judge was not to give the permission without being assured of the morality of the

38. A functionary who combined the offices of local judge, justice of the peace, and recorder.

3: Leyburn Z-4, 5 (no date) 1966
SV3 Haiti SV3

applicant, of his regular conduct, and his ability to maintain himself economically in the town. Land laborers might not send their children to school or have them apprenticed in a town without a certificate from the same judge. Under no pretext might a worker establish a shop or sell his produce in the countryside; certain exceptions were made of necessary articles of food and home manufacture. No laborer might build a home in rural parts except on the plantation to which he was attached.

An individual, once placed by the government in the category of "cultivator," might never be removed from that class except by official authorization. Even with the consent of the proprietor and the agricultural administrator of the district, he was not to quit the estate to which he was bound for more than eight days.

We may further note in the Code that coöperative enterprise among the workers is forbidden. Anticipating the possible tendency of laborers to set up what in modern times would be called a producers' coöperative, presumably to lapse thereafter into laziness, the Code requires that every worker engage himself individually by authentic contract to the service of a proprietor or lessee. Such engagements for la grande culture are not to be for less than three years, or more than nine. Penalties for infractions of these rules are fines, imprisonment, or forced labor on public works in the chief town of the commune.

The Code directs the management of agricultural property and grazing establishments,[39] also the making of contracts between the proprietor and his hirelings. Rural police are established, in imitation of Christophe's Dahomets, to act as inspectors of plantations and of the workers on them.

The section repressing vagrancy is very full. All persons not proprietors or lessees, yet living in rural parts without having made a contract with some producer, are classed as vagabonds, to be arrested and taken before the magistrate. This official will warn them that by law they are bound to make a contract, and that if they refuse they will be sent to prison. Should a vagabond persist in refusing to sign a contract after eight days of confinement, he is condemned to labor on public works until he agrees. Should the prisoner be a minor, he will be sent to his parents.

39. This latter item was inserted as an adjustment to one of the primary occupations of the Spanish end of the island.

3: Leyburn Z-4, 5 (no date) 1966
SV3 Haiti SV3

Granted these obvious difficulties, there is still little to be said for the zeal or integrity of churchmen in Saint-Domingue. Father Cabon cites a report to Rome in 1794, which, he remarks, "was not designed to be made public, and does not bear the earmarks of passion," and which flatly states that "since the expulsion of the Jesuits, the curés have for the most part led lives so indecent . . . that the citizens and Negroes have lost all the sentiments of religion which the Jesuits gave them."[1] There had been distinguished churchmen in Saint-Domingue before 1750, authors, scientists, teachers of some note, but none appeared thereafter. The rich French colony was not a bright star in the Catholic crown.

Undeterred by those who might have been their spiritual guides, the white people followed the easy path of self-indulgence. The universal testimony of visitors is that, with a few notable exceptions, immorality and cruelty were daily commonplaces. To make a fortune was the prime ambition of every white man, since money made possible the luxurious enjoyment of this world's goods. Protest against money-making or soft living would have been futile. Administrative agents turned public office to their own profit; judges sold justice to the highest bidder; planters drove their slaves to death; and priests dispensed religious solace for a tidy sum.

The freedmen, who in everything patterned their lives after social leaders in the white planter class, had no more concern for religion than their models. They attended Mass occasionally as a social event, where they might see and be seen. When in the latter days of the colony discriminatory legislation required that colored persons sit in separate parts of the church, most of the affranchis simply refrained from attending Mass: their religious zeal was not so great as to make them submit to the public shame of segregation. In their daily lives, likewise, they followed the example of the white planters in pursuing pleasure rather than sobriety, "culture" rather than religious zeal. Like the whites, they were often licentious in their conduct. When it came their turn to direct affairs of state in free Haiti, there was little interest in spiritual matters among them. The intellectuals of the group paid homage to the liberal philosophers of the century rather than to religious thinkers.

If religion was at a low ebb in the prosperous days of the colony, it almost disappeared in the excitement of the years following the

1. Ibid., p. 33. revolt of the slaves (1791).

3: Leyburn Z-4, 5 (no date) 1966
SV3 Haiti SV3

In every commune recognized by the state was an important

official appointed by the president—the *juge de paix*. The term has little relation to our "justice of the peace." It implies rather the function performed by the old English country squire, who often by his prestige managed to patch up differences between neighbors without allowing matters to come to an issue, but who if the issue were joined sat as judge. The decision of the judge was final in all civil matters up to fifty dollars—and the case was rare in which peasants dealt in affairs as large as this. In the more populous communes (those containing large villages or towns) the juge de paix was more impersonal. He might render decisions, subject to appeal, in cases up to a hundred dollars. All minor police cases came within the province of this official, whose judgment was final in matters up to a twelve-dollar fine or a jail sentence of five days. All criminal cases began with this judge, but those of the gravest sort were speedily sent to higher courts.

By and large rural Haiti got along with a minimum of civil government, and urban Haiti was governed much as a small provincial town of the nineteenth century.

Several communes made an arrondissement, another political subdivision with a distinct military cast. Through most of her history Haiti had an average of about twenty of these arrondissements, each of them presided over by an army officer of high rank appointed by the president. In arrondissements containing important capitals a general, in lesser ones a brigadier-general, exercised both military and civil authority. This man was the medium through which the central government made known its decisions and laws. Because life could be tedious in a dull country town, in a district full of peaceful peasants, many of the generals spent their time in reflecting upon the chances of a successful insurrection which might make them important in national affairs. As already noted, the standard of discipline in the army was never very high, so that the presiding officer of an arrondissement might have a real sinecure if he was not ambitious.[1]

1. The military arrondissement always bore the name of the principal town or village within its borders. The following list shows the important places during the time of Boyer:
In the department of the North there were five arrondissements: Cap-Haïtien, Grande-Rivière, Marmelade, Fort Liberté, Limbé.
In the Northwest, three: Port-de-Paix, Cap Nicolas Môle, Le Borgne.
In the Artibonite, three: Saint-Marc, Gonaïves, Mirebalais.
In the West, three: Port-au-Prince, Jacmel, Léogane.
In the South, five: Les Cayes, Jérémie, Aquin, Tiburon, Nippes.

3: Leyburn Z-4, 5 (no date) 1966
SV3 Haiti SV3

631 [361] Overlapping these military arrondissements have been financial arrondissements, generally six in number. The capital of each of these was a port, with a customs house: Port-au-Prince and Jacmel in the West, Les Cayes and Jérémie in the South, Cap-Haïtien in the North, and Gonaïves in the Artibonite.

Finally there were the five *départements*. These seem never to have been much more than geographical divisions to which it was convenient occasionally to refer. In more recent years, as records have been kept with more accuracy, the departments have developed important clerical significance.

[162]

Département	*Capital*	*Estimated Population (1930)*
North	Cap-Haïtien	450,000
Northwest	Port-de-Paix	150,000
Artibonite	Gonaïves	475,000
West	Port-au-Prince	950,000
South	Les Cayes	650,000

According to the present constitution, the country still has its five administrative departments, but has increased its other political subdivisions. There are 27 arrondissements to attend to governmental details, and in addition, 10 prefectures overlapping the arrondissements and serving as units of police control. The arrondissements are still further subdivided into 94 communes, 43 military posts, and 551 rural sections. Each commune is administered by a communal magistrate, appointed by the secretary of the interior, and so subordinate to the central government. This magistrate is assisted by a communal council or a municipal council, composed of elected prominent citizens.[2]

692 693 Courts have existed only in the important towns, which since Boyer's presidency have varied in number from four to eight. Each of these courts has consisted of a president or *doyen*, four judges, four substitute judges, a commissioner appointed by the president of the republic to keep watch over the proceedings of the body, and various inferior clerks and secretaries. Judges are politically appointed, either by the president of the republic or by his cabinet. Civil cases which exceed fifty dollars in extent have been handled by these courts, as also all appeals from decisions of local juges de paix. To the judges were added in 1826 juries to assist in criminal cases

693 695

2. See Luc Dorsinville, *Géographie-Atlas* (Port-au-Prince, 1929), *passim*.

3: Leyburn Z-4, 5 (no date) 1966
SV3 Haiti SV3

693 ●
695

exceeding the jurisdiction of the local juges, these juries to be named by the doyen and his colleagues. It was a dubious reform, often a worthless privilege; at times it was definitely harmful, for no matter how explicit the law, mere technicalities in a long, involved trial could be completely befuddling to an illiterate juror. Brown tells the tale of a certain foreman of the jury who asked a juror his opinion of a defendant's innocence; the juror replied that he could not write, whereas "you have written it all down. Let us know what you have done."[3] Innocence might easily be convicted by this system, and guilt escape. The addition of a jury to the court was even useless in many instances, for the language of the lawyers was French, and that of the jurors almost certain to be Créole. Boyer's attempt to graft English court practice upon the French system already functioning in Haiti was certainly not happy; the jury system shortly disappeared.

641

Complicated forms are not for the peasant. He knew a soldier and a soldier's function in the countryside, but not the relation of the arrondissement to the national government; the juge de paix was understandable, but not the procedure of the civil courts at department capitals. The national government and its structure were remote, although the president's name might be familiar. Haiti was really organized from the top down rather than from the bottom up. The powers of the early presidents were arbitrary: they could not only order changes in the framework of any part of government, but might also shift at will the personnel.

114
175
647
171

Carl Becker remarks: "In 1791, the French began their spectacular feat in constitution making. Between 1791 and 1875 Taine counts thirteen French constitutions adopted in relatively rapid succession. I can find only twelve, but maybe Taine is right. It doesn't really matter. The point is that for facility, speed, and endurance in constitution making, France holds the record. Yet other nations also ran."[4] Haiti was one of them: in fact the record is properly hers, although Professor Becker does not mention the little Caribbean state. In the nineteenth century Haiti lived under fifteen constitutions, to which she has added at least two more in the twentieth century. It is not always easy to say when a constitution is new: its author may

3. Jonathan Brown, *The History and Present Condition of St. Domingo*, II, 272-272.
4. "Afterthoughts on Constitutions," *The Yale Review*, XXVII, No. 3 (Spring, 1938), 451.

3: Leyburn Z-4,5 (no date) 1966
SV3 Haiti SV3

692 public, or against any of the secretaries of state or other important officials; but if this court was ever convoked, records of its actions are lacking.[8]

The most important actually functioning court was that of Cassation. In American terminology this would be called the Court of Appeals, reviewing cases coming up from the civil and criminal courts of the important towns. It sat at Port-au-Prince, and consisted of fourteen judges appointed by the president and his cabinet.

[177] Boyer had borrowed most of the forms of important Haitian courts from France, but he could not transfer to his country the spirit and tradition which made those courts function in France. The High Court of Justice remained a mere plan; the national Court of Cassation and the so-called department courts in the four to eight large towns operated under close presidential scrutiny; only the juges de paix, dealing with small and homely cases, had comparative freedom.

175 695 693 It was generally acknowledged throughout the nineteenth century that Haitian judges, whether of the Court of Cassation or of the department courts, could be influenced by pecuniary and political considerations. The odds were heavy in favor of any suitor who was liberal in his bribes to the judges; "justice" could be bought, and

175 693 was. By French tradition of justice, the prisoner was assumed to be guilty until he was proved innocent. In Haiti he was bullied, cajoled, and cross-questioned in order to force a confession, and to make him state in open court what he was said to have admitted in his preliminary examination. Confessions were obtained by beatings, and prisoners were occasionally even tortured to death.

175 695 Another characteristic of the nineteenth-century courts—and not in Haiti alone—was the tardiness of their procedure. Consider the civil case in one of the department courts. If a creditor instituted a suit against a debtor in one department and obtained a favorable verdict, the defendant was permitted to appeal from the sentence to the court of an adjoining department, and so on in succession throughout the whole series; if the last court confirmed the judgment of the first, the defendant could then move it into the Court of

[692] 8. This Supreme Court would, according to the constitution, be formed only by proclamation of the Senate (and therefore under the ultimate control of the president), and might not hold its sessions in a spot more than twelve leagues from the seat of the Senate. Consisting of fifteen judges to be chosen by lot from the tribunals of the five Haitian departments, a two-thirds majority would be necessary for conviction, and no appeal might be made from its decisions.

3: Leyburn Z-4, 5 (no date) 1966
SV3 Haiti SV3

Cassation at Port-au-Prince. In the event that this court confirmed the judgment of the lower courts, the defendant might still appeal from it to the president, and might apply for a new trial in the lower courts. Thus the contest would proceed ad infinitum, however clear the proof that the debt was just.

The Court of Cassation exceeded all others in the slowness of its judgments. Its judges were under the surveillance of the president, and must consult with him before deciding a case. If he disagreed, and the state was a party to the case, the judges must reconsider "to see if they have not taken a wrong view of the question at issue." Even so, the grand judge might stay execution as long as he deemed advisable after a judgment was confirmed.

Judges were rarely chosen from among trained lawyers, but were appointed by the government because of political considerations. Consequently, few people had any faith in court decisions, and in general they avoided taking their problems to law. The peasants in particular were bewildered by the whole procedure. White foreigners also often complained that unless they were willing to pay heavily they had no slightest chance of getting justice in the Haitian courts.

It must be emphasized that the majority of cases coming before the courts were civil rather than criminal, for it has been a universal matter of comment that the Haitian people were rarely guilty of serious crimes. Minor thefts of poultry or animals have been the commonest breaches of the peace, while murder, arson, and rape have almost never occurred. Even the bitterest critics of the republic have noted the absence of crime.[9] It is noteworthy that, despite their poverty and the hardness of their life, the Haitians are, contrary to the prevailing white man's notion of Negro unreliability, passion, and lawlessness, a tranquil folk. The absence of crime speaks volumes for the wholesomeness of a people much maligned by the stories of their "Voodoo" practices and bloody revolutions. An élite ex-president spoke to me with pride of the honesty of the country people who welcomed travelers with true hospitality and with no expectation of payment. "You might sleep safely in a country cabin with a thousand dollars on your person," he said.[10]

9. Mackenzie, British consul during a part of Boyer's régime, and young Haiti's foremost critic, said that during his whole stay he knew of only one murder, and that in this case the assassin was executed.

10. In times of revolution, brigandage was expected but was not accounted a crime, any more than killing in warfare is called murder.